

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No. 5186 of 1997

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

BHARATBHAI CHUNILAL PACHAL

Versus

STATE OF GUJARAT

Appearance:

MR HN JHALA for Petitioners

MR SR DIVETIA APP for Respondent No. 1

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 10/07/98

ORAL JUDGEMENT

Learned advocate Mr. H.N Zala appearing for the petitioner is not present on call. Earlier also, on several occasions Mr. Zala was not present when the matter was taken up for hearing and the matter had to be adjourned in the interest of justice.

2. This application was admitted to final hearing on 18th September, 1997 and Rule nisi was made returnable on 6th October, 1997. Ad-interim order against further proceedings of Session Case No. 307 of 1993 has also been granted by this Court. The trial has thus been stayed since September, 1997. I, therefore, do not consider it expedient to adjourn the matter further.

3. This application has been made by four accused persons in Criminal Case No. 307 of 1993, pending before the Sessions Court, Kheda. Petitioners are charged for commission of offence under Sections 302, 307, 120-B and 34 of the Indian Penal Code. This application has been made by the petitioners for transfer of the criminal case from Sessions Court, Kheda to any other Sessions Court of the State. Petitioners are charged for committing murder of one Kaushikbhai Panchal. In this application, it is alleged that said Kaushikbhai Panchal was a practising lawyer and was a member of Nadiad Bar Association. Since the murder of said Kaushikbhai, the Nadiad Bar Association has unanimously resolved not to render any professional assistance to either of the petitioners. It is, therefore, submitted that if the trial is conducted by the learned Sessions Judge, Kheda, the petitioners would not be able to defend themselves effectively, and in the interest of justice and fair-play, the trial is required to be transferred to any other Sessions Court.

4. The allegations made in the petition are not supported by any documentary evidence. Petitioners have not produced on record, the resolution alleged to have been passed by the Nadiad Bar Association against offering professional assistance to the petitioners. It, therefore, cannot be believed that such a resolution has been passed by the Nadiad Bar Association. Except the above ground, no other contention has been raised for transfer of the trial. I, therefore, do not see any justification for transferring the trial from the Sessions Court at Nadiad. Petition is, therefore, dismissed. Rule is discharged. Interim relief is vacated. Registry is directed to send the writ forthwith.

Prakash*